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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(COMM) 61/2020, IAs 1755-1757/2020

SUN PHARMACEUTICAL INDUSTRIES
LIMITED

..... Plaintiff

Through: Mr. Sachin Gupta, Ms. Rajnandini
Mahajan, Mr. Pratyush Rao,
Mr. Kartik Aggarwal and Ms. Jasleen
Kaur, Advs.

versus

SH. BHUWAN KUMAR

..... Defendant

Through:

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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07.02.2020

IA.1756/2020 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

IA. 1755/2020 (for filing additional documents)

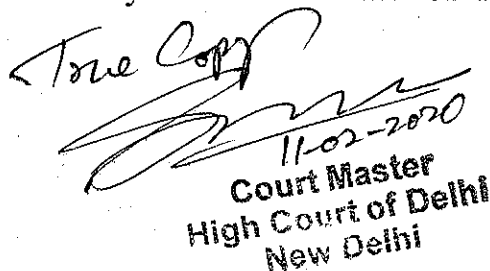
This is an application filed by the applicant / plaintiff seeking permission to file additional documents. For the reasons stated in the application, same is allowed. Additional documents be filed within four weeks.

Application stands disposed of.

CS(COMM) 61/2020

Summons be issued in the suit to the defendant returnable before Joint Registrar on May 11, 2020.

Summons shall state that the written statement shall be filed by the defendant within 30 days from the date of receipt of summons. The

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High Court of Delhi
New Delhi

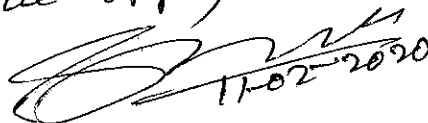
defendant shall file his affidavit of admission and denial of documents filed by the plaintiff.

Replication shall be filed within 30 days of the receipt of the written statement / documents. The replication shall be accompanied by the affidavit of admission denial of documents filed on behalf of the defendant. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the time lines.

IA.1757/2020 (for stay under Order XXXIX Rule 1 & 2)

1. Issue notice on this application to the defendant returnable on August 5, 2020 before court.
2. It is the submission of the learned counsel for the plaintiff that plaintiff's predecessor-in-interest namely Ranbaxy Laboratories Limited coined and adopted the trade mark STORVAS in the year 1999 and has been selling it since then. The medical preparation under the trade mark STORVAS has many variants such as STORVAS CV 10, STORVAS CV 20 etc. STORVAS contains the molecule Atorvastatin Calcium IP. The registration of STORVAS in the name of predecessor of the plaintiff is in Class-5 with registration no. 868513 dated July 19, 1999.
3. It is the submission of the learned counsel for the plaintiff that plaintiff registration is valid and subsisting in the name of the plaintiff. He has drawn my attention to Para 11 of the plaint to contend that the sales figures for the drugs STORVAS in all variations for the year 2018-19 was Rs.7254.54 Lacs. It is his submission that for the first time in third week of December, 2019, plaintiff came to know through an application of the defendant for registration of the impugned mark STOVAS in application no. 326138 dated May 17, 2016, which was published on September 29, 2019 in

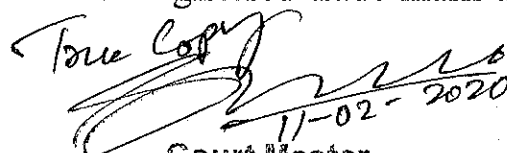
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Journal no. 1920-0. The plaintiff has filed an opposition to the said application, which is yet to be served upon the defendant by the Trade Marks registry. He submits that the defendant has claimed use of the impugned trademark since March 30, 2016 in the aforesaid application, but the plaintiff was unable to find product bearing the impugned mark. There is an apprehension that the defendant might be using the impugned mark and thereby passing off his goods for those of the plaintiff. In substance, it is his submission that the defendant unethically and unlawfully adopted the impugned mark. Being in Pharmaceutical business defendant was well aware of the plaintiff's trademark and having seen the success of the plaintiff's product under the mark STORVAS, the defendant adopted the impugned mark. Such adoption amounts to infringement of the trade mark, passing off, unfair trade practice, unfair competition and dilution. In support of his submission, learned counsel for the plaintiff has drawn my attention to the application filed by the defendant for registration of the impugned trade mark STOVAS.

5. Having heard the learned counsel for the plaintiff and perused the documents, this court is of the view that the plaintiff has made out a prima facie case, even the balance of convenience is in favour of the plaintiff for grant of ad interim injunction. Accordingly, this court restrains the defendant or as the case may be, assignees in business, its distributors, dealers, stockists, retailers, chemists, servants and agents from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in medicinal preparations under the impugned mark STOVAS or any other trade mark as may be deceptively similar to the plaintiff's trade mark STORVAS amounting to infringement of registered trade mark and/or amounting to

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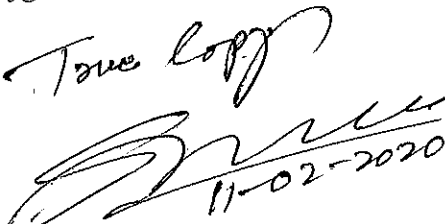
passing off their goods as those of the Plaintiff till the next date of hearing.

6. The provisions of Order XXXIX Rule 3 be complied within two weeks.

7. Let a copy of this order be given *dasti* under the Signatures of the Court Master.

V. KAMESWAR RAO, J

FEBRUARY 07, 2020/jg

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New Delhi